

United States District Court

for the

Eastern District of WashingtonFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**Sep 24, 2024**

SEAN F. MCAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Diego Avila-Garcia

Case Number: 0980 4:20CR06032-MKD-1

Address of Offender: [REDACTED] Chelan, Washington 98816

Name of Sentencing Judicial Officer: The Honorable Mary K. Dimke, U.S. District Judge

Date of Original Sentence: January 6, 2022

Original Offense: Felon in Possession of Ammunition, 18 U.S.C. §§ 922(g)(1) and (924(a)(2)

Original Sentence: Probation - 24 months Type of Supervision: Supervised Release

Revocation Sentence: Prison - 4 months
(December 15, 2022) TSR - 24 months

Asst. U.S. Attorney: Thomas J. Hanlon

Date Supervision Commenced: March 12, 2023

Defense Attorney: Craig Webster

Date Supervision Expires: March 11, 2025

PETITIONING THE COURT

To issue a warrant.

Mr. Avila-Garcia's conditions of supervised release were reviewed with him on March 25, 2023. Mr. Avila-Garcia signed his conditions of supervised release, acknowledging an understanding of his conditions.

The probation officer believes that the offender has violated the following conditions of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	<u>Special Condition #4:</u> You must abstain from the use of illegal controlled substances, and must submit to urinalysis and sweat patch testing, as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his supervised release by consuming cocaine on or about September 12, 2024.

On September 11, 2024, Mr. Avila-Garcia contacted this officer and stated he was unable to make it to the Center for Alcohol and Drug Treatment (The Center) for his color line drug test. This officer excused Mr. Avila-Garcia from providing his drug test and informed Mr. Avila-Garcia that this officer would collect a drug test from him on September 12, 2024. On September 12, 2024, this officer contacted Mr. Avila-Garcia at his residence in Chelan,

Prob12C

Re: Avila-Garcia, Diego**September 24, 2024****Page 2**

Washington. During the contact Mr. Avila-Garcia provided a drug test that tested positive for the presence of cocaine. Mr. Avila-Garcia was questioned about the presumptive positive drug test and he denied consuming any controlled substances.

On September 17, 2024, U.S. Probation received a drug test report from Abbott Laboratories (Abbott), showing positive results for the presence of cocaine. On September 18, 2024, this officer contacted Mr. Avila-Garcia by telephone and questioned Mr. Avila-Garcia about the positive drug test from Abbott. Mr. Avila-Garcia admitted to consuming cocaine on September 11, 2024. He reported he was associating with negative peers and consumed alcohol and cocaine.

- 2 **Special Condition #3:** You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his supervised release conditions by consuming alcohol on or about September 11, 2024.

On September 18, 2024, this officer contacted Mr. Avila-Garcia by telephone and during the conversation Mr. Avila-Garcia admitted to consuming alcohol on September 11, 2024. He reported he was associating with negative peers and consumed alcohol.

- 3 **Mandatory Condition #1:** You must not commit another federal, state or local crime.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his supervised release conditions by committing a new crime of third degree driving with a suspended license, in violation of the Revised Code of Washington (RCW) 46.20.342.1C on September 12, 2024.

A summary of the Chelan County Sheriff's Office deputy (CCSOD) incident report 24C09884, reflects that on September 12, 2024, at approximately 3:06 a.m. a CCSOD observed a vehicle drive into an empty parking lot and turn off its lights as the vehicle was still rolling forward. The deputy observed the brake light activate as the vehicle came to a stop.

Due to the suspicious behavior, the CCSOD contacted the vehicle and observed Mr. Avila-Garcia sitting in the front passenger seat. Mr. Avila-Garcia stated he was not driving the vehicle and a male named Oscar Perez was driving. Mr. Avila-Garcia stated Oscar Perez was concerned someone was following him so he turned into the parking lot, jumped out of the car, ran straight forward, over the fence and across the baseball field. The deputy explained to Mr. Avila-Garcia that the deputy watched him drive into the parking lot, turn off the lights and come to stop. The CCSOD also informed Mr. Avila-Garcia that he had a clear view of the vehicle and no one exited.

Mr. Avila-Garcia was asked to exit the vehicle and he continued to state Oscar Perez was driving. The CCSOD looked for footprints in the dew of the grass and the dirt by the vehicle and did not observe any foot prints by the vehicle. While Mr. Avila-Garcia was talking with the deputy, his story continued to change and he informed the CCSOD that "Carlos was driving."

Prob12C

Re: Avila-Garcia, Diego**September 24, 2024****Page 3**

The CCSOD completed a department of licensing (DOL) check of Mr. Avila-Garcia and determined his driving status was third degree suspended/revoked and an ignition interlock device requirement. The CCSOD observed there was no ignition interlock device in the vehicle. Mr. Avila-Garcia was arrested for driving with a suspended license and for not having an ignition interlock device.

Mr. Avila-Garcia eventually admitted he was on federal probation and was in fear that being arrested would cause him to go back to jail for a significant time. He also stated he would lose his recently acquired job and that is why he jumped into the passenger seat. Mr. Avila-Garcia informed the deputy the vehicle belonged to his sister, he pulled over and got into the passenger seat because he had too much to drink. The CCSOD did not observe signs of impairment to the point the CCSOD believed he was driving under the influence. The CCSOD issued Mr. Avila-Garcia a citation and allowed him to walk home.

Mr. Avila-Garcia's next court date is October 9, 2024, in Chelan County District Court, for case number 4A0189423.

4 **Mandatory Condition #1:** You must not commit another federal, state or local crime.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his supervised release conditions by operating a vehicle without an ignition interlock, in violation of RCW 46.20.740, on September 12, 2024.

See violation #3 for supporting evidence.

5 **Special Condition #4:** You must abstain from the use of illegal controlled substances, and must submit to urinalysis and sweat patch testing, as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his supervised release conditions by consuming cocaine on or about September 18, 2024.

On September 18, 2024, Mr. Avila-Garcia was directed to report to The Center for a random drug test. Mr. Avila-Garcia provided a drug test that was sent to Abbott for testing. On September 22, 2024, U.S. Probation received a drug test report from Abbott, showing positive results for the presence of cocaine.

6 **Standard Condition #9:** If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.

Supporting Evidence: Mr. Avila-Garcia is considered to be in violation of his probation by having contact with the CCSOD on September 19, 2024, and not notifying U.S. Probation within 72 hours of the contact.

Preliminary information indicates Mr. Avila-Garcia was contacted by a CCSOD at approximately 1:08 a.m. on September 19, 2024. It appears Mr. Avila-Garcia was a passenger in a vehicle that was contacted for driving under the influence. U.S. Probation has requested an incident report and has not received the report at the time this petition was drafted.

Prob12C

Re: Avila-Garcia, Diego

September 24, 2024

Page 4

Mr. Avila-Garcia did not notify this officer he had contact with a CCSOD within 72 hours.

The U.S. Probation Office respectfully recommends the Court issue a warrant requiring the offender to appear to answer to the allegations contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 24, 2024

s/Phil Casey

Phil Casey
U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☐ Other

M. K. Dink



Signature of Judicial Officer

9/24/2024

Date